

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

STEVEN M. BULLARD,

Plaintiffs,

v.

STANDARD INSURANCE COMPANY,

Defendant.

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Cause No. 10-3083

NOTICE OF REMOVAL

COMES NOW Defendant Standard Insurance Company (“Standard”) by its attorneys and hereby gives notice that it has removed the above-entitled case from the Circuit Court of Greene County, Missouri to the United States District Court for the Western District of Missouri. In support of its Notice, Standard states to the Court:

1. Plaintiff, Steven M. Bullard, commenced this cause by filing his original Petition in the Circuit Court of Greene County, Missouri on or about November 2, 2009 (hereinafter “Original Petition”).
2. In the Original Petition Plaintiff alleged that he was entitled to receive disability benefits in the amount of \$5,000 per month beginning October 1, 2008. (Original Petition, ¶ 13)
3. In the Original Petition Plaintiff was seeking 13 months of disability benefits (from October 2008 to the date of the Original Petition, November 2, 2009) at \$5,000 per month or \$65,000. Thus, Plaintiff was not seeking \$75,000 exclusive of interest and costs and therefore federal diversity jurisdiction did not exist under 28 U.S.C. § 1332. The action, as plead in the Original Petition, was not removable. *See, e.g., Garvey v. Prudential Ins. Co. of America*, No. 08-CV-0147(PJS/RLE), 2008 WL 1805603 (D. Minn. April 18, 2008)
4. On March 4, 2010, Plaintiff filed his Amended Petition (“Amended Petition”).

5. Complete diversity of citizenship exists between Plaintiff who is a citizen of the State of Missouri and Standard which is incorporated pursuant to the laws of the State of Oregon and maintains its principal place of business in Portland, Oregon.

6. In his Amended Petition Plaintiff seeks for the first time disability benefits exceeding \$75,000 exclusive of interest and costs. He seeks benefits of \$5,000 per month from October 1, 2008. The period from October 1, 2008 to March 4, 2010 (the date Plaintiff filed the Amended Petition) is a period of 17 months. $\$5,000 \times 17 \text{ months} = \$85,000$.

7. The amount in controversy is determined based upon the plaintiff's complaint at the time the notice of removal is filed. *Moore's Federal Practice*, 3rd edition, § 107.14[2][g][ii], p. 107-82.

8. This action is removable pursuant to 28 U.S.C. § 1446(b) which provides, "If the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other papers from which it may first be ascertained that the case is one which is or has become removal except that a case may not be removed on the basis of jurisdiction conferred by section 1332 of this title more than 1 year after commencement of the action."

9. This removal is timely in that it is filed within 30 days of Plaintiff filings his Amended Petition, within 30 days of Standard being served with the Amended Petition and within one year after the commencement of the action on November 2, 2009.

10. The Original Petition and Amended Petition in this action are attached hereto and incorporated herein by reference.

WHEREFORE, Defendant Standard Insurance Company respectfully gives notice that the above-entitled cause is removed from the Circuit Court of Greene County, Missouri.

Dated this 10th day of March, 2010.

THOMPSON COBURN LLP

By: /s/ Richard J. Pautler

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on the 10th day of March, 2010 a copy of the foregoing was served via U.S. Mail, postage prepaid, upon:

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